



Albany Office

(p) 518.598.7548
(e) kevin.cannizzaro87@gmail.com

P.O. Box 10849
Albany, NY 12201

February 7, 2020

Hon. Lawrence E. Kahn
United States District Court
Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway , Room 424
Albany New York, 12207

RE: Jennings v. Decker, et al.
Civil Index No. 5:17-CV-00054 (LEK/TWD)

Dear Judge Kahn

I write in response to the defendant's recent request to file a dispositive motion in this matter (see Dkt. No. 121).

Plaintiff respectfully objects to defendant's request and asks that the Court allow this matter to proceed to trial. Mr. Jennings' case has been in litigation for over three years since January 19, 2017. As the Court is aware, defendants previously moved for summary judgement on or about June 29, 2018 (See Dkt. No 53). The Court granted defendants motion in part and denied it in part (See Dkt. No. 62). Significantly, and as is relevant here, the Court denied the portion of defendant's motion related to the excessive force cause of action (Dkt. 62 at pp.15-16). Defendants certainly should not be granted an opportunity for a "second bite at the apple" with regard to the excessive force cause of action and any motion related to that cause of action should be denied.

Additionally, as counsel for the defendants indicated in their request, significant discovery has been exchanged subsequent to discovery being re-opened. It is Plaintiff's position, in regard to both the racial profiling claim against the individual officers and the Monell claim against the City, that there exist issues of fact that are more suited for a jury to resolve. Therefore, Plaintiff respectfully requests that the Court allow those causes of action to proceed to trial as well.

In the event that the Court is inclined to allow for additional dispositive motion practice, I respectfully request that the Court entertain a settlement conference prior to the return date for that motion. The parties have engaged in several good faith settlement discussions to date and it is possible that a settlement could be reached upon mutually agreeable terms.

I stand ready to answer any questions that the Court may have. Thank you in advance for your kind consideration to this request.

Sincerely,

/s/ Kevin M. Cannizzaro

Kevin M. Cannizzaro
Attorney for Plaintiff
Bar Roll No. 519957
P.O. Box 10849
Albany, NY 12201
Tel. 518-598-7548

Via ECF :

Christina F. DeJoseph, Esq.
Attorney for Defendants Decker, Ettinger, and the City of Syracuse
City of Syracuse Corporation Counsel
233 East Washington Street
Room 300 City Hall
Syracuse, NY 13202
Tel: (315)448-8400
Fax: (315)448-8381
Email: cdejoseph@syr.gov

Via Regular Mail:

Tony Jennings
Plaintiff
17-B-0816
Cayuga Correctional Facility
P.O. Box 1186
Moravia, New York 13118

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